Village of Indian Head Park 201 Acacia Drive Indian Head Park, IL 60525

MINUTES VILLAGE OF INDIAN HEAD PARK PLANNING AND ZONING COMMISSION PUBLIC HEARING

"Pursuant to 5 ILCS 120/2.06 (3) minutes of public meetings shall include, but need not be limited to: a general description of all matters proposed, discussed, or decided, and a record of votes taken."

Tuesday, August 7, 2012 7:30 P.M.

CALL TO ORDER - CHAIRMAN DENNIS SCHERMERHORN

A public hearing was hosted by the Village of Indian Head Park Planning and Zoning Commission on Tuesday, August 7, 2012, at the Municipal Facility, 201 Acacia Drive. Zoning Petition #177 was presented to the Commission by Mr. Anastasios Katris, owner of the property at 11165 Ashbrook Lane. Mr. Katris is requesting an amendment to the Ashbrook Development Planned Unit Development and variances to allow for the construction of a patio/deck open trellis and retaining wall in the rear of the property that encroaches the rear yard setback. The meeting was convened at 7:30 p.m. by Chairman Dennis Schermerhorn. Kathy Leach, Zoning Commission Secretary, called the meeting to order.

ROLL CALL: PRESENT (AND CONSTITUTING A QUORUM):

Chairman Dennis Schermerhorn Commissioner Diane Andrews Commissioner Noreen Costelloe Commissioner Timothy Kyzivat Commissioner Earl O'Malley Commissioner Jack Yelnick

NOT PRESENT:

Commissioner Robert Tantillo

ALSO PRESENT:

Harry Fournier, Counsel for Mr. Katris George Netopolis, General Contractor for Mr. Katris

PLEDGE OF ALLEGIANCE TO THE FLAG

Chairman Dennis Schermerhorn and the Planning and Zoning Commission members led the audience in reciting the Pledge of Allegiance to the Flag as follows: "I Pledge Allegiance to the Flag of the United States of America and to the republic for which it stands, one nation under God indivisible with liberty and justice for all".

QUESTIONS AND/OR COMMENTS FROM INDIAN HEAD PARK RESIDENTS/PROPERTY OWNERS IN ATTENDANCE REGARDING ZONING AGENDA ITEMS

None

PUBLIC HEARING HELD BEFORE THE VILLAGE OF INDIAN HEAD PARK PLANNING AND ZONING COMMISSION (PUBLIC COMMENTS RECEIVED AFTER DISCUSSIONS BY THE PLANNING AND ZONING COMMISSION MEMBERS AND PRIOR TO VOTES)

ZONING AGENDA ITEMS:

1. Petition #177 - A Petition for an amendment to the Ashbrook Development Planned Unit Development and rear yard variance concerning a request for an above grade patio area with an open arbor roof and retaining wall that encroaches the rear yard setback at 11165 Ashbrook Lane, Indian Head Park.

Chairman Schermerhorn noted a zoning petition was filed with the Village by Anastasios Katris requesting an amendment to the Ashbrook Planned Unit Development and rear yard variance to allow for the construction of a new deck/patio with an open arbor roof and retaining wall at 11165 Ashbrook Lane. He noted an amendment to the previously approved Ashbrook Planned Unit Development is required for any structural changes that were not part of the P.U.D. approval. The property is located at 11165 Ashbrook Lane. The following exhibits were presented and reviewed by the Commission concerning this zoning petition: (1) a zoning petition form signed by Mr. Katris dated July 11, 2012; (2) a letter of approval from the Ashbrook Estate Homes Association for an at grade patio and stone wall only; (3) a copy of the proposed deck, retaining wall and arbor roof design plans; (4) a memo to public works regarding posting of the zoning sign on the subject property; (5) a certificate of publication notice in the Suburban Life newspaper; (6) a plat of survey of the property; (7) a copy of the letter that was sent to the adjacent property owners;

(8) a plan review report last revised July 29, 2012 prepared by the Village's plan review consultant and; (9) a letter from Robert Webster of Ashbrook regarding the proposed amendment and zoning variations.

Chairman Schermerhorn read the following letter into the record dated July 30, 2012 to the Commission from Charles Eck, President of the Ashbrook Townhome Association: "The subject property is part of two P.U.D.'s that regulate the Ashbrook Subdivision. The subject property is in the P.U.D. that covers the 58 single family homes. The second P.U.D. regulates the 112 residences in the townhome association. The subject property borders on only single family home with the single family P.U.D., but also borders directly next to two townhomes. The zoning decision has substantial impact on the 112 residents of the townhome association. It sets a precedence of flexibility to alter long standing P.U.D. regulations. The building of the patio and pergola had neither the approval of the Indian Head Park Building Department nor the architectural committee of the single family association. It is my understanding, as of this writing, the approval for the pergola from the architectural committee has still not been granted. The townhome association finds the patio and pergola to be a serious infringement on pre-determined setbacks that impact both P.U.D's. Further, the manner in which construction commenced and continued, without an Indian Head Park permit or architectural committee approval does not warrant post construction approval. The Board of Directors of the Ashbrook Townhome Association concur with this view. Sincerely, Charles Eck, President of the Ashbrook Townhome Association".

Chairman Schermerhorn stated the patio, retaining wall and pergola has already been constructed. He asked the petitioner and his representatives to explain how the construction moved forward.

Harry Fournier, counsel for Mr. Katris who is the property owner, addressed the Commission. Mr. Fournier stated there was a mention in the letter from the Ashbrook Association that work was completed without a permit. He noted that Mr. Katris applied for a permit to redo his patio. However, due to a language barrier with the property owner he made a few changes and maybe he did not understand that a change in the plans needed further approval from the Village or the Association. Mr. Fournier stated that it was not the property owner's intent to pull anything over on anyone and the owner did have approval from the Ashbrook Homeowner's Association which governs the single family homes in Ashbrook.

Mr. Fournier stated that a neighboring single family home in Ashbrook constructed a similar type of patio with arbor roof but that owner obtained approval from the Association and Village before constructing it. He noted that Mr. Katris has cooperated with the Village once he found out there was an issue, the Village has been working with the property owner to review the plans and the patio is constructed of brick pavers so there should be no drainage issues.

Chairman Schermerhorn asked Mr. Fournier if the property owner applied to the Village for a permit before constructing the patio, retaining wall and open trellis roof. Mr. Fournier stated that permit approval was given for the patio at that time. Chairman Schermerhorn asked Mr. Fournier if there is evidence of such a permit issued by the Village. George Netopolis, the contractor for the property owner, stated he contacted the Village to apply for a permit to replace an existing patio and did not receive a permit for that scope of work. Mr. Netopolis stated that due to deterioration of the existing patio, retaining walls were necessary to support a new patio and that issue came up as the project progressed.

Commissioner Yelnick asked Mr. Netopolis if there were two or three risers off the back of house originally, was the concept to remove the steps coming out of the house and move the grade up for the new patio. Mr. Netopolis stated the original plat of survey shows the patio with risers and the new patio would have one riser with a slightly larger new patio. Mr. Netopolis stated there is a one step riser down on the exterior to the new patio at grade level.

Chairman Schermerhorn asked when the project commenced. Harry Fournier asked for a few minutes to speak privately with his client to discuss the project so he may respond on his behalf concerning this zoning matter. Mr. Fournier stated the project began sometime in the fall of 2011. Commissioner Andrews asked if the property owner at that time contacted the Village for a permit to install just the patio. Mr. Netopolis, contractor for the owner, stated when he came into the Village that replacement for the patio only was within the scope of not encroaching on any properties and he did not require a permit to construct an at grade patio.

Commissioner Yelnick asked how approval was obtained from the Village for the scope of work that was completed. Mr. Netopolis stated that he did obtain a permit post construction and he did admit that due to the grade not being properly assessed there were some adjustments made to the plans. Chairman Schermerhorn asked Mr. Netopolis to provide a copy of the permit issued by the Village. Mr. Netopolis stated he did not have a copy of the permit at the meeting. Commissioner Andrews asked Mr. Netopolis why he did not come back to the Village when he decided to change the plan to add retaining walls and enlarge the patio area. Mr. Netopolis stated he was not aware a new plan needed to be submitted for approval.

Commissioner Kyzivat stated that the grade of the property on the east side of the home is significantly different than on the west side of the property. He added that he doubted the original patio went as far out as it is now because of the grade. Commissioner Yelnick stated he is in the concrete business and there is no way the patio could be extended out that far into the rear yard above the grade without adding additional risers because there would be nothing to support that patio slab and that is probably why the retaining walls were added to support the structure. Commissioner Yelnick stated there is no doubt the patio and retaining wall that was constructed is very nice, it is a quality product and it enhances the property. However, there is an approval process and the manner in which the patio and retaining wall was constructed without a permit is wrong.

George Netopolis stated the building inspector observed work taking place late in the day when the project was almost finished and he inspected the project that was completed to that point. At that time, he did not issue a stop work order. Mr. Netopolis stated that the inspector informed him to contact the Village to obtain a permit. He further stated a permit fee and inspection fee were paid to the Village.

Commissioner Andrews asked if Mr. Netopolis had a letter from the Ashbrook Homowner's Association for the scope of work that was taking place. Mr. Netopolis stated, no. Chairman Schermerhorn asked what plan was actually submitted to the Ashbrook Association.

Mr. Fournier consulted with Mr. Katris briefly to discuss the project. Mr. Fournier stated Mr. Katris went to the Ashbrook Association President's home to let him know what was built and that he needed approval. There was no paperwork or documentation given by the Ashbrook Association. Mr. Fournier further stated that at the time he was gathering addresses from adjacent property owners concerning this zoning matter, there were no negative comments about the project.

Chairman Schermerhorn stated the plat of survey provided to the Commission reflects the construction of a stone patio with a stone wall without dimensions or elevations so there would be no way of knowing what would be constructed. He noted the survey completed after the construction does not show a pergola and it does not show the grade. Chairman Schermerhorn stated that the pergola was not presented to the Ashbrook Association for approval as part of this plan and the approval of the patio was conditioned upon compliance with all other applicable Village codes. It was noted in the Ashbrook approval letter that anything other than a stone patio and stone wall did not have approval of that Board. Chairman Schermerhorn pointed out that any amendment to a Planned Unit Development must be preceded by approval from the association before seeking approval from the Village.

Mr. Fournier stated that he would like the opportunity to either request a revised letter of approval or confirm with the Association President whether he was aware or not aware of the pergola because when the approval was requested from the Ashbrook Association, the pergola was already constructed. Chairman Schermerhorn stated the structures with dimensions established exceeds what is allowed by Village code. He added it seems there is considerable documentation that is missing for justification on how these structures were built without a formal approval from the association or a permit granted by the Village.

Chairman Schermerhorn stated there certainly is not an approval from the homeowner's association for a pergola. He suggested that an approval be obtained from the association in writing based on the project that was completed. Chairman Schermerhorn suggested that the public hearing be continued to September 4, 2012 to allow the petitioner and his representatives time to provide further information to the Commission regarding any and all issues leading up to the construction of the patio, retaining walls and pergola with that information to be provided to the Commission.

Commissioner Yelnick stated he does not like the manner in which the project was completed without the proper approvals and it is not fair to others who have been before the Commission for zoning approvals before starting their projects. Commissioner Costelloe pointed out that an approval from the Ashbrook Association is not automatic.

Mr. Fournier stated that he would like a continuance to be able to obtain the information that is needed for this matter to be considered. Mr. Fournier further stated that his client acknowledges that some of the process was done incorrectly and maybe he was not aware that living in an area with an association requires certain approvals. Mr. Fournier stated that in other municipalities, Villages and the City of Chicago this happens and people are told to get in compliance, submit an application, obtain documentation and many times a penalty is imposed and they go forward even though it was not the proper procedure. Mr. Fournier stated if all the information is provided and the Board is planning to set an example so other people do not do it, that would be punitive to the client who has spent \$15,000 to \$20,000 on the project.

Commissioner Kyzivat stated he would like to see a detailed timeline from the beginning on what was done during the project, how it proceeded and who gave approvals. Commissioner Yelnick stated that obviously some mistakes were made but the best thing to do is for more information to be provided in order for the Commission to make a decision.

Commissioner O'Malley stated that Indian Head Park is not comparing itself with any other Village and it is not the City of Chicago. He added it is a well known fact that any structural changes require approval and a permit in Indian Head Park. Commissioner O'Malley stated that the requirement for permits has been publicized several times in the Smoke Signals newsletter that is sent to residents. He noted the property owner went way beyond what was approved by the Ashbrook Association and there are cases where projects needed to be removed if they were constructed without the proper approvals and fines were imposed.

Mr. Fournier stated that sometimes lines get crossed with language barriers but his client is here to bring resolution to this matter. Commissioner O'Malley stated there were several other people involved in this project including the contractor that built it and there was no language barrier when he consulted with the Village. Mr. Netopolis, the contractor for Mr. Katris, stated there are different rules in every town and a contractor may not always know all the requirements in each town. Commissioner O'Malley stated it is the responsibility of a contractor to know what the rules are to build something to meet proper codes, to obtain permits and determine if a zoning process might be necessary.

Mr. Netopolis stated he came to the Village with a preliminary sketch to discuss what he was planning to do. Commissioner Andrews stated the Ashbrook Townhome Association is objecting to the project that impacts those homeowners. She suggested that some type of plantings for screening be proposed for consideration as part of this project.

Commissioner Kyzivat asked the petitioner to review the entire plan and determine what the final plan is to obtain approval from the Ashbrook Association so the Commission can consider that plan without any further changes.

Chairman Schermerhorn stated that the Commission's responsibility is generally to look at what is proposed to be built and the impact on neighboring areas and also taking into consideration input from both homeowner associations.

Chairman Schermerhorn stated that the Planning and Zoning Commission prides itself in working with homeowners on their zoning matters to be able to move forward with their projects. Mr. Fournier stated that he will obtain further information on this zoning matter to provide to the Commission at the September meeting including an approval from the Ashbrook Association.

Chairman Schermerhorn entertained a motion to continue the public hearing regarding Petition #177 to the September 4, 2012 meeting. Commissioner O'Malley moved, seconded by Commissioner Costelloe, to continue the public hearing to September 4, 2012. Carried by unanimous roll call vote (6/0/1).

Aye: Chairman Schermerhorn

Commissioners: Andrews, Costelloe, O'Malley, Kyzivat, Yelnick

Nay: None Absent: Tantillo

PUBLIC COMMENTS FROM THE AUDIENCE

Mr. Verzivolli, a neighbor of Mr. Katris, stated he is in favor the patio project as it was built by the contractor for Mr. Katris. Charlie Eck, President of the Ashbrook Townhome Association, commented about the statement by a Commission member that stated if something is constructed without a permit, it may need to come down.

Mr. Eck stated that some people installed screening over porches, patios and decks in the townhome section of Ashbrook early on in the development with permission of the builder. However, it was outside the scope of the approved Planned Unit Development for Ashbrook and those screenings were removed. Mr. Eck stated that sometimes there are decisions that have to be made regarding nonconformance to Village codes. Mr. Eck further stated that he is aware that Joe Miks, President of the Ashbrook Association, was silent on the pergola issue and no approval was given.

ADJOURNMENT

There being no further business to discuss before the Commission, Commissioner O'Malley moved, seconded by Commissioner Yelnick, to adjourn the meeting at 8:25 p.m. Carried by unanimous voice vote (6/0/1).

Respectfully Submitted, Kathy Leach, Recording Secretary Planning and Zoning Commission